



Senate

General Assembly

File No. 149

February Session, 2022

Substitute Senate Bill No. 269

Senate, March 28, 2022

The Committee on Banking reported through SEN. MILLER of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING PROTECTION OF THE ELDERLY FROM
FINANCIAL EXPLOITATION AND REQUIRING PAPER STATEMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective July 1, 2022*) (a) There is established a working
2 group to (1) analyze potential procedures to be used by financial
3 institutions or their employees when they believe that a transaction or
4 disbursement involving an account of an elderly person may involve,
5 facilitate, result in or contribute to the financial exploitation of such
6 elderly person, and (2) make recommendations concerning such
7 procedures.

8 (b) The working group shall consist of the following members:

9 (1) The Banking Commissioner, or the Banking Commissioner's
10 designee;

11 (2) A representative of the Connecticut Bankers' Association;

12 (3) A representative of the Credit Union League of Connecticut;

- 13 (4) The president of AARP Connecticut, or the president's designee;
- 14 (5) The president of the Connecticut Chapter of the National
15 Academy of Elder Law Attorneys, or the president's designee; and
- 16 (6) The chairperson of the elder law section of the Connecticut Bar
17 Association, or the chairperson's designee.
- 18 (c) The speaker of the House of Representatives and the president pro
19 tempore of the Senate shall select the chairpersons of the working group
20 from among the members of the working group. Such chairpersons shall
21 schedule the first meeting of the working group, which shall be held not
22 later than sixty days after the effective date of this section.
- 23 (d) The administrative staff of the joint standing committee of the
24 General Assembly having cognizance of matters relating to banking
25 shall serve as administrative staff of the working group.
- 26 (e) Not later than January 1, 2023, the working group shall submit a
27 report on its findings and recommendations to the joint standing
28 committee of the General Assembly having cognizance of matters
29 relating to banking, in accordance with the provisions of section 11-4a
30 of the general statutes. The working group shall terminate on the date
31 that it submits such report or January 1, 2023, whichever is later.
- 32 Sec. 2. Subsection (b) of section 36a-290 of the general statutes is
33 repealed and the following is substituted in lieu thereof (*Effective October*
34 *1, 2022*):
- 35 (b) The establishment of a deposit account or share account which is
36 a joint account under subsection (a) of this section is, in the absence of
37 fraud or undue influence, or [other clear and convincing] a
38 preponderance of the evidence to the contrary, prima facie evidence of
39 the intention of all of the named owners thereof to vest title to such
40 account, including all subsequent deposits and additions made thereto,
41 in such survivor or survivors, in any action or proceeding between any
42 two or more of the depositors, respecting the ownership of such account
43 or its proceeds.

44 Sec. 3. Section 36a-318 of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective October 1, 2022*):

46 (a) Except as provided in subsection (c) of this section, prior to
47 opening a new deposit account for any depositor or prospective
48 depositor: (1) Each financial institution shall deliver to such depositor
49 or prospective depositor in written form which the depositor can keep
50 a copy of (A) the deposit contract, (B) a listing of deposit account charges
51 and the conditions under which such charges will be imposed
52 including, but not limited to, failure to maintain a minimum balance,
53 and (C) if such account is a time account, deposit account disclosures
54 that govern such account; and (2) each financial institution, other than a
55 Connecticut credit union or federal credit union, shall deliver to each
56 depositor or prospective depositor deposit account disclosures that
57 govern such account if such account is a savings account.

58 (b) The deposit account disclosures and listing of deposit account
59 charges may be contained in more than one document and may be
60 combined with disclosures, fees and contract terms for other accounts
61 as long as the deposit account disclosures and deposit account charges
62 are disclosed clearly and conspicuously and it is clear which deposit
63 account disclosures and deposit account charges are applicable to the
64 types of deposit accounts maintained by the depositor.

65 (c) If all or any part of a maturing or otherwise expiring time account
66 is automatically deposited by renewal, roll-over or otherwise in a new
67 deposit account within thirty days after expiration, the provisions of
68 subsection (a) of this section shall not apply to such new account, except
69 that if the annual percentage yield on such new account is lower than
70 the annual percentage yield on the expiring account, and the maturing
71 time account has a term to maturity of longer than thirty-one days, the
72 financial institution shall deliver to the depositor the notice as required
73 by this subsection. Such notice shall be delivered at least thirty calendar
74 days before the maturity of the existing time account. Alternatively,
75 such notice may be delivered at least twenty calendar days before the
76 end of the grace period on the existing account, provided a grace period

77 of at least five calendar days is allowed. For purposes of this subsection,
78 a grace period means a period following the maturity of an
79 automatically renewing time account during which the depositor may
80 withdraw funds without being assessed a penalty. The notice shall recite
81 the deposit account disclosures and deposit account charges, including
82 the conditions under which such charges will be imposed, applicable to
83 the new account, along with the date the existing account matures and
84 the new maturity date if the account is renewed; provided if the interest
85 rate and annual percentage yield that will be paid for the new account
86 are unknown when the notice is provided, the notice shall state that
87 those rates have not yet been determined, the date when they will be
88 determined and a telephone number the depositor may call to obtain the
89 interest rate and the annual percentage yield that will be paid for the
90 new account. Notwithstanding any provisions of the general statutes to
91 the contrary, if the term to maturity of the maturing time account is one
92 year or less but longer than thirty-one days, the notice is not required to
93 contain the information recited in this subsection other than (1) the date
94 the existing account matures and the new maturity date if the account
95 is renewed; (2) the interest rate and the annual percentage yield if they
96 are known, or if the rates have not yet been determined, the date they
97 will be determined and a telephone number the depositor may call to
98 obtain the interest rate and the annual percentage yield that will be paid
99 for the new account; and (3) any difference in the terms of the new
100 account compared to the deposit account disclosures and deposit
101 account charges governing the existing account.

102 (d) Except for deposit accounts for which a financial institution sends
103 periodic statements, each financial institution that has a policy of
104 imposing dormancy fees in connection with inactive deposit accounts
105 shall, not less than fifteen days prior to the date the institution may
106 impose a dormancy fee, mail a notice to the depositor. The notice shall
107 be printed in capital letters in no less than twelve-point boldface type
108 and shall state that the account will become inactive and that a
109 dormancy fee may be imposed by the financial institution as a result of
110 such inactivity. Such notice shall be mailed to the last-known mailing
111 address maintained by the institution for the deposit account.

112 (e) (1) Each financial institution shall comply with the applicable
113 provisions of the Electronic Signatures in Global and National
114 Commerce Act, 15 USC 7001 et seq., that (A) require a consumer's
115 consent prior to providing such consumer with periodic statements in
116 electronic form, (B) allow a consumer to withdraw such consent, and (C)
117 require a financial institution to provide a paper copy of any
118 electronically provided periodic statement upon a consumer's request.

119 (2) Each such financial institution shall comply with the applicable
120 provisions of the Connecticut Uniform Electronic Transactions Act,
121 sections 1-266 to 1-286, inclusive, before providing a consumer with
122 periodic statements in electronic form.

123 (3) Each financial institution shall comply with the applicable
124 provisions of the Truth in Savings Act, 12 USC 4301 et seq., and the
125 regulations promulgated pursuant to said act, before providing a
126 consumer with periodic statements in electronic form.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2022</i>	New section
Sec. 2	<i>October 1, 2022</i>	36a-290(b)
Sec. 3	<i>October 1, 2022</i>	36a-318

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill makes several changes to the banking statutes related to accounts at financial institutions. These provisions have no fiscal impact to the state or municipalities as they concern interactions between financial institutions and individuals.

The bill also establishes a working group to study and make recommendations to prevent financial exploitation of the elderly. PA 17-236 prohibits transportation allowance for task force members. This provision also applies to working groups and councils.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 269*****AN ACT CONCERNING PROTECTION OF THE ELDERLY FROM FINANCIAL EXPLOITATION AND REQUIRING PAPER STATEMENTS.*****SUMMARY**

This bill:

1. decreases the evidentiary standard used for determining when ownership of a joint account at a bank or credit union would not vest to the surviving account owners (§ 2);
2. creates a six-member working group to study and make recommendations for procedures at financial institutions to prevent the financial exploitation of the elderly (§ 1); and
3. explicitly requires financial institutions (i.e., banks and credit unions) to comply with certain federal and state law requirements on providing electronic or paper periodic statements (§ 3).

EFFECTIVE DATE: October 1, 2022, except the working group provision is effective July 1, 2022.

§ 2 — JOINT BANK ACCOUNT OWNERSHIP

By law, there is a rebuttable presumption that creating a joint account is evidence of intent by the person creating the account to have it vest, if he or she dies, to the other account holder(s). Current law requires someone challenging the survivor's right to account ownership to show clear and convincing contrary evidence or that there was fraud or undue influence. The bill replaces the clear and convincing evidentiary standard with preponderance of the evidence, which is a lower legal standard.

A “preponderance of the evidence” means that it is more likely than not that the facts asserted are true. It is the burden of proof in most civil trials. “Clear and convincing” means that it is highly probable or reasonably certain (Black’s Law Dictionary, 11th ed.).

§ 1 — WORKING GROUP ON PREVENTING ELDER EXPLOITATION

The bill creates a working group to analyze potential procedures for financial institutions and their employees to use when they believe a transaction or disbursement from an elderly person’s account may involve, ease, result in, or contribute to his or her financial exploitation. The working group must report its findings and recommendations to the Banking Committee by January 1, 2023. It terminates on the date it submits the report, or January 1, 2023, whichever is later.

The working group consists of the following members:

1. the Department of Banking commissioner, or his designee;
2. one representative each of the Connecticut Bankers’ Association and the Credit Union League of Connecticut (presumably, designated by the respective organizations);
3. the presidents of AARP Connecticut and the Connecticut Chapter of the National Academy of Elder Law Attorneys, or their designees; and
4. the Connecticut Bar Association’s elder law section chairperson, or his designee.

Under the bill, the House speaker and Senate president pro tempore must select the chairpersons from the working group’s members. The chairpersons must schedule the working group’s first meeting, which must be held by August 30, 2022. The Banking Committee’s administrative staff serves as the working group’s administrative staff.

§ 3 — FINANCIAL INSTITUTIONS PERIODIC STATEMENTS

The bill requires financial institutions to comply with certain provisions in three federal and state laws that apply to them regarding

periodic statements to consumers.

Specifically, the institutions must, as required by the federal Electronic Signatures in Global and National Commerce Act:

1. only provide periodic statements in electronic form to consumers after the consumers consent to receive them in that format;
2. allow consumers to withdraw their consents; and
3. provide paper copies of any electronic statements when requested by consumers (15 U.S.C. § 7001, et seq.).

They must also comply with the Connecticut Uniform Electronic Transactions Act (CGS § 1-266, et seq., which provides uniform rules for electronic commerce transactions) and the federal Truth in Savings Act (12 U.S.C. § 4301, et seq., which, among other things, requires uniform disclosure of interest rate and fee information) before providing consumers with electronic periodic statements.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/15/2022)